



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q79408

PELLETIER, Jerry

Appln. No.: 10/771,395

Group Art Unit: 1645

Confirmation No.: 4148

Examiner: Vanessa L. FORD

Filed: February 5, 2004

For: INHIBITORS OF STAPHYLOCOCCUS AUREUS SIGMA 70 FACTOR AND USES THEREOF

**RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENTS**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is in response to the Restriction and Election of Species Requirement, dated September 28, 2006, issued in the above-identified U.S. patent application.

In response to the Restriction Requirement, Applicants elect Group I, claims 1-3 for examination on the merits. This election is made without traverse.

The Examiner has also identified the application as containing claims directed to more than one distinct species. In response to the Examiner's requirement, Applicants elect SEQ ID NO:3 and SEQ ID NO:7 for examination, on which claims 1-3 are readable.

While the Examiner required election of one of the five species set forth at page 4 of the Office Action (i.e., SEQ ID NOs:3-5, 7 and 8), Applicants respectfully note that these five sequences pertain to polypeptides from two different organisms. In particular, SEQ ID NOs:3-5 are from *Staphylococcus aureus*, while SEQ ID NOs:7 and 8 are from bacteriophage G1.

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Q79408  
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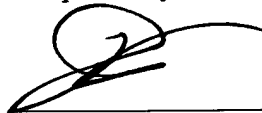
Therefore, Applicants elect herein one sequence from the bacterial polypeptides (SEQ ID NO:3) and one sequence from the phage polypeptides (SEQ ID NO:7).

Applicants also note that the peptide sequence of SEQ ID NO:4 (amino acids 294-368 of SEQ ID NO:2) and SEQ ID NO:5 (amino acids 294-360 of SEQ ID NO:2) are encompassed within the peptide sequence of SEQ ID NO:3 (amino acids 127-368 of SEQ ID NO:2). Similarly, the peptide sequence of SEQ ID NO:8 (amino acids 50-198 of SEQ ID NO:7) is encompassed within the polypeptide sequence of SEQ ID NO:7. Because a search of the largest fragments (SEQ ID NOs:3 and 7) will inherently include a search of the smaller fragments, Applicants respectfully request withdrawal of the election of species requirement.

Applicants reserves the right to file a Divisional Application directed to non-elected claims 4-35.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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**23373**

CUSTOMER NUMBER

Date: October 25, 2006